the intestate had never been authorized to use this means of exit from the hospital grounds, the defendant owed him no duty to keep the same safe for that purpose. Hooker, J., *dissenting.*

The basis of liability in negligence cases is the violation of some legal duty to exercise care. *Cusick v. Adams,* 115 N. Y. 55. Such duty must be owed to the plaintiff or the action will not lie. *Nickerson v. Bridgeport H. Co.,* 46 Conn. 24; *Marvin Safe Co. v. Ward,* 46 N. J. L. 19. The general rule is that a landowner is under no obligation to render his premises safe for any purpose for which he cannot reasonably anticipate that they will be used. *Armstrong v. Medbury,* 67 Mich. 250. A mere license given by the owners to enter and use the premises, which the licensee has full opportunity of inspecting and which contain no concealed cause of mischief, throws no obligation upon the owner to guard the licensee against danger. *Sullway v. Waters,* 14 Ir. C. L. 460. If plaintiff is a licensee and falls into a hole, which is not concealed except by the darkness of night, the owner of the premises is not liable for injuries sustained thereby. *Reardon v. Thompson,* 149 Mass. 267.

NEGLIGENCE—EVIDENCE TO ESTABLISH.—LEONARD V. MIAMI MIN. CO., 148 FED. REP. 827.—*Held,* that an inference of negligence cannot be based on a presumption nor on speculation and conjecture.

General rule is that negligence cannot be presumed without any evidence, *Lyndsay v. Conn. & P. R. R. Co.,* 27 Vt. 643; *Daniel v. Directors, etc., Met. R. Co.,* L. R. (5 H. L.) 45. And as law does not impute it, it lies on party alleging it to prove it, *Doyle v. Boston & A. R. R. Co.,* 145 Mass. 386; *O'Connor v. Mo. Pac. R. R. Co.,* 94 Mo. 150. Mere fact of an accident's happening does not amount to evidence sufficient to base an inference of negligence on, *Welfare v. London & B. R. Co.,* L. R. (4 Q. B.) 698. To the general rule as just stated there are two well recognized exceptions, the first being: when relation of carrier and passenger exists and injury occurs during actual transportation, *Curtis v. Rochester, etc., R. Co.,* 18 N. Y. 534. But besides these two elements the plaintiff must show that the accident was caused by some defect in road or some part of the apparatus employed in operating it, *Wall v. Livezay,* 6 Col. 465; *Christie v. Griggs,* 2 Campbell's Rep. 79. The second exception being: when an injury arises from some condition or event which is in its very nature so obviously destructive of safety of person or property as to admit of no other inference save negligence on part of person in control of such agency, such acts come within the principle of *res ipsa loquitur, Kearney v. London & B. R. Co.,* L. R. (6 Q. B.) 761; *Mullen v. St. John,* 57 N. Y. 567.

PATENTS—INFRINGEMENT—EQUIVALENTS.—UNIVERSAL BRUSH CO. V. SONN, ET AL., 146 FED. 517 (N. Y.).—*Held,* that the substantial equivalent of a patented device or means which performs the same function does not avoid an infringement because it may perform an additional function.

The courts and text writers are very reluctant about defining the term invention, lest it should breed injustice. However, it must be new, useful and comply with all legal formalities. *Cooley on Torts,* second edition, page 414. Novelty is presumed on the grant of a patent, and the patent is *prima facie* evidence thereof. *Waterbury Brass Co. v. N. Y., etc., Brass Co.,* 3 Fish. Pat. Cas. 43; *Huber v. Nelson Mfg. Co.,* 30 Fed. 830. Whether a device is new, however, depends upon whether it is the same kind as another or whether it acts in the same way and produces the same result in substance.

Howe Mach. Co. v. Nail Needle Co., 134 U. S. 388; *Day v. Fair Haven Ry. Co.*, 132 U. S. 98. To be raised to the dignity of an invention, the improvement must be one which would not ordinarily occur to an expert mechanic. *Mast, Foos & Co. v. Stove Mfg. Co.*, 177 U. S. 493; *Potts v. Creager*, 155 U. S. 597. So also the aggregation or combination of old elements, which perform no new function and accomplishes no new results, does not involve a patentable novelty. *Mosler Safe Co. v. Mosler*, 127 U. S. 364; *Peters v. Hanson*, 129 U. S. 541. Yet if such a new combination of known elements produces a new and beneficial result, it is evidence of invention but not conclusive. *Loom Co. v. Higgins*, 105 U. S. 580. Moreover, the use of an old thing for a new purpose does not constitute an invention unless it produces a new and useful result. *Grant v. Walter*, 148 U. S. 547; *Knapp v. Morss*, 150 V. S. 221. Nor is a device any less an equivalent of another because it may perform an additional function, *O'Leary v. Utica & M. V. Ry. Co.*, 144 Fed. 399; *Wheeler v. Climper, Mower, etc., Co.*, Fed. Cas. No. 17,493. One of the best tests of invention, also, is whether it brings to actual commercial success what prior inventors had partly accomplished. *Consolidated Valve Co. v. Crosby Valve Co.*, 113 U. S. 157; *Smith v. Goodyear Dental Vulcanite Co.*, 93 U. S. 686. And although prior unsuccessful experiments involved the same idea or principle as a subsequent patent, the latter will not be invalidated. *Whitelys v. Swayne*, 7 Wall. 685; *Am. Bell Telep. Co. v. People Tel. Co.*, 25 Fed. 725.

SLANDER—EVIDENCE—UNDERSTANDING OF WORDS SPOKEN.—PROCTER V. POINTER, 56 S. E. 111 (GA.).—*Held*, that in cases of slander, an exception is sometimes made to the general rule that witnesses must state facts, and not their inferences from them and as the slander and damage consist in the apprehension of the hearers, they are allowed to give their understanding of the words spoken.

The general rule is that witnesses may state their understanding of slanderous words proved to have been spoken. *Tottlebein v. Blankenship*, 88 Ill. App. 47; *Freeman v. Sanderson*, 123 Ind. 264. But a contrary view has occasionally been taken. *Snell v. Snow*, 54 Mass. 278; *Wright v. Paige*, 36 Barb. (N. Y.) 438. So where a slander was made by insinuations and gestures, it was competent for hearers to state what they understood by them. *Leonard v. Allen*, 65 Mass. 241. Custom may give to words an uncommon meaning and a witness may be allowed to give his understanding of them. *Newbold v. Bradstreet*, 57 Md. 38. But where words are unambiguous and expressed in ordinary language, a witness will not be allowed to testify as to his understanding. *Jarnigan v. Fleming*, 43 Miss. 710. Hence, the converse also is true, that evidence as to understanding of witness will only be admitted where the words are ambiguous and susceptible of different meanings. *Shaw v. Shaw*, 49 N. H. 533.

STATE REGULATION—POLICE POWER—CITY ORDINANCE—CITY OF SELMA V. TILL, 42 So. 405 (ALA.).—*Held*, that a city ordinance, making it an offense for one to peddle without having secured a license was not repugnant to the Interstate Law nor any other feature of the State or Federal Constitution.

Any state has the right, by virtue of its police power, to tax or forbid any class of employment which may be prejudicial to the public good *Cooley on Const. Limitations*, sixth edition, 742; *Sayre v. Phillips*, 148 Pa. St. 482. This police power is inherent in a state without any reservation in the Constitution. *Carthage v. Frederick*, 122 N. Y. 268; *Com. v. Vrooman*,